

In the Matter of Merchant Mariner's Document No. Z-918715 and all
other Seaman Documents
Issued to: Lethirre B. Knight

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1328

Lethirre B. Knight

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 11 October 1967, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents upon finding him guilty of misconduct. The three specifications found proved allege that while serving as a fireman-watertender on board the United States SS GULF QUEEN under authority of the document above described, on 21 May 1961, Appellant wrongfully addressed Second Assistant Engineer Burden with foul and abusive language; Appellant wrongfully struck the Second Assistant with his fist; Appellant assaulted and battered the Second Assistant with a boiler burner.

At the hearing, Appellant was represented by counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced into evidence the testimony of three engineering officers and the Master of the ship.

Appellant's testimony was the only evidence in defense. Appellant stated that he hit or shoved the Second Assistant when he used a finger to push in Appellant's nose; Appellant was then struck on the shoulder with a wrench held by the Third Assistant Engineer; Appellant picked up a boiler burner and hit the Second Assistant with it to protect himself against an attack by these two officers.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of six months outright plus six months' suspension on twelve months' probation.

FINDINGS OF FACT

On 21 May 1961, Appellant was serving as a fireman-watertender on board the United States SS GULF QUEEN and acting under authority of his document while the ship was en route between Staten Island, New York and Port Reading, New Jersey.

When blowing tubes on the morning of this date, the Second Assistant Engineer called Appellant's attention to something in connection with the operation of the boilers in order for Appellant to correct it. An argument followed during which Appellant addressed the Second Assistant with foul and abusive language while referring to another fireman discharged by the Second Assistant. Appellant then used his fist to knock the Second Assistant to the deck. Appellant had not been touched by the Second Assistant. Appellant struck the Second Assistant on the left leg with a boiler burner while he was still on the deck. The Second Assistant escaped by running away. His chin and leg were cut. The Third Assistant Engineer, who was in charge of the watch, picked up a wrench after he saw Appellant knock the Second Assistant to the deck and hit him with the burner. The Third Assistant notified the Chief Engineer and the Master. They both came to the engine room. Appellant was relieved of his duties and ordered to leave the engine room. Appellant was discharged later on this date after he told the Master, in the presence of the Chief Engineer, that Appellant was going to kill the "Second Engineer."

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that there are errors in the record which prejudice Appellant since there was no evidence at the hearing to back up the charges which Appellant denies. Appellant's testimony should have been given equal consideration but he was discriminated against because he is a negro.

The engineering officers lied to protect themselves because the boiler fires were blown out while blowing tubes. There are two witnesses who would testify to the latter fact.

OPINION

The above findings of fact are based on the testimony of the four witnesses who appeared against Appellant. Their testimony was accepted as true by the Examiner and he specifically rejected Appellant's conflicting testimony. This was an issue of credibility of the witnesses which was the function of the Examiner to decide as the trier of the facts. There is no reason to overrule his findings as to what occurred.

The contentions on appeal are without merit. The Examiner's

decision indicates that he considered Appellant's testimony, but did not believe it because it seemed improbable in some respects and the Examiner thought the testimony of the other witnesses represented what probably happened. This determination was reached on the basis of a fair evaluation of the evidence rather than because of any unfair racial discrimination against Appellant.

Whether the boiler fires were blown out while the Second Assistant was blowing the tubes is a matter which has no bearing on the offenses considered in this appeal.

ORDER

The order of the Examiner dated at New York, New York, on 11 October 1961, is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 9th day of August, 1962.